

SEP 10 2004

## SMART & BIGGAR

Intellectual Property & Technology Law

To Fax no.: (703) 872-9306

Page 1 of: 4

Attention: Examiner Anne Marie Grunberg  
Group Art Unit 1661

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Ottawa, Canada K1P 5Y6

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From: Ms. Elizabeth A. Hayes-Quebec  
Smart & Biggar

Your file no.: 09/206,852

Date: September 10, 2004

Reply to Ottawa file no.: 76999-4

Time:

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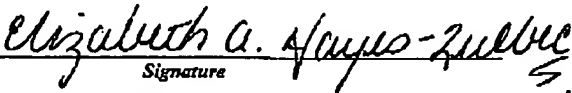
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<b>AMENDMENT TRANSMITTAL LETTER (Large Entity)</b>				Docket No. 76999-4 /aba	
Applicant(s): <b>RICHARD F. ALLISON, ET AL</b>					
Application No. 09/206,852	Filing Date December 8, 1998	Examiner Anne Marie Grunberg	Customer No. 07380	Group Art Unit 1661	Confirmation No. 6041
Invention: <b>METHODS FOR TRANSFORMING PLANTS</b>					
<b><u>COMMISSIONER FOR PATENTS:</u></b>					
Transmitted herewith is an amendment in the above-identified application. The fee has been calculated and is transmitted as shown below.					
<b>CLAIMS AS AMENDED</b>					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	19 -	20 =	0 x	\$18.00	\$0.00
INDEP. CLAIMS	3 -	3 =	0 x	\$86.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
<b>TOTAL ADDITIONAL FEE FOR THIS AMENDMENT</b>					<b>\$0.00</b>
<input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account 19-2550 <input checked="" type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input checked="" type="checkbox"/> Any patent application processing fees under 37 CFR 1.17. <input type="checkbox"/> Payment by credit card. Form PTO-2038.					
<b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b>					
 _____ Signature			Dated: September 10, 2004		
Elizabeth A. Hayes-Quebec Registration No. 48,305 SMART & BIGGAR P.O. Box 2999, Station D 900 - 55 Metcalfe Street Ottawa, Ontario K1P 5Y6, Canada			<div style="border: 1px solid black; padding: 5px;">         I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ (Date)       </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">         _____          Signature of Person Mailing Correspondence       </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">         _____          Typed or Printed Name of Person Mailing Correspondence       </div>		
Tel.: 613-232-2486 CC:					

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SEP 10 2004

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl. No. : 09/206,852 Confirmation No. 6041  
 Applicant : ALLISON, Richard F. et al.  
 Filed : December 8, 1998  
 TC/A.U. : 1661  
 Examiner : Anne Marie Grünberg  
  
 Docket No. : 76999-4  
 Customer No. : 07380

Commissioner for Patents  
 Alexandria, VA 22313-1450  
 U.S.A.

Dear Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

This letter is filed in response to the Office Action of August 10, 2004

In response to the restriction requirement, Applicant elects Group I, claims 1, 3, 5 to 15 and 22 to 24 for further prosecution on the merits. In accordance with this election, Applicant reserves all rights in the non-elected claims, including the right to file one or more divisional applications covering the subject matter thereof.

Independent and distinct inventions under 35 USC §121 is alleged. This holding is respectfully transversed. It is respectfully asserted that claims 16 and 20 of Group II should be rejoined with the claims of Group I (claims 1, 3, 5 to 15 and 22 to 24) as the transgenic plant recited in the claims of Group II is defined in terms of the process of Group I. Therefore, the transgenic plants cannot be made by alternate means. Accordingly, joining of the claims would require minimal additional searching on the part of the Examiner,.

Reconsideration and withdrawal of the restriction requirement is respectfully requested.

Appl. No. 09/206,852

An action on the merits is awaited.

Respectfully submitted,

Richard F. Allison, et al.

By Elizabeth Hayes-Quebec  
Elizabeth Hayes-Quebec  
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Date: September 10, 2004  
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